

HOT CHECK PACKET

Washington County Attorney's Office

100 E. Main Street, Suite 200 Brenham, Texas 77833

Hot check and theft by check cases ranging from \$100.00 to \$2,500.00 are handled in the County Attorney's office. There is no charge to the merchant or individual filing the check for collection; however a Prosecutor's fee will be added to the balance owed by the check writer.

FILING A HOT CHECK

- **STEP ONE**
 - Upon receiving the returned check, it is the merchant's responsibility to send a letter demanding payment of said check within 10 days of the date on the letter.
 - This letter does not have to be mailed certified, but it is recommended that the sender request a return receipt.
 - *A letter does not need to be sent if the returned check is marked as CLOSED ACCOUNT.*
- **STEP TWO**
 - If the 10-day grace period has passed and no response is heard from the check writer, bring the returned check, and any bank notations, the letter, the return receipt sent to the check writer and any other receipts or information from the check writer to the County Attorney's office.
 - *This must be done within 30 days of the check's deposit, or the funds will be deemed UNCOLLECTABLE.*
- **STEP THREE**
 - We will send the check writer a letter demanding full payment for the check, which will now include merchant and prosecutor fees. If no payment is received within 10 days of the letter's date, the check will be filed with the County Clerk and criminal charges may be pressed against the check writer.

WHEN ACCEPTING A CHECK

Several measures must be taken to prosecute an individual for a hot check. It is important for the merchant to take every precautionary step to avoid accepting bad checks.

- **CHECK WRITER'S INFORMATION...**
 - It is imperative that you as the merchant collect the necessary information from the check writer. This includes the individual's DRIVERS LICENSE NUMBER and BIRTH DATE.
 - The merchant should look up this information on the individual's I.D. himself to ensure the correct information is taken.
- **CHECK INFORMATION...**
 - Checks must be dated the same date they are written, the amount written on the check must be identical in both places, a complete name, address and telephone number must be printed in the top left corner of the check, and a signature matching the printed name must be in the bottom right corner of the check.

WHAT TO LOOK FOR

Jane Doe 1234 Main Street Brenham, Texas 77833 DL:01234567 DOB: 01/02/80	1234 Date: _____
Pay to the Order of: _____	\$ _____ _____ Dollars
<i>Washington County Bank</i>	
For _____	
01234567898745 123032 1234	

- 1) DATE
 - a) Checks must be dated the same day they are written; post-dated checks cannot be prosecuted.
- 2) COMPLETE ADDRESS AND TELEPHONE NUMBERS
 - a) This information will assist you in locating the check writer if the check is worthless. P.O. Box addresses are not adequate.
- 3) CONFIRM IDENTITY
 - a) It is essential that you obtain a valid picture ID from the check writer. Verify that the ID matches the check writer, and record the DL# and date of birth.
- 4) WRITTEN AMOUNTS AND NUMBERS MUST CORRESPOND
 - a) Checks with discrepancies in amounts cannot be prosecuted.

WHAT TO AVOID

- BEWARE OF SEVERAL INDICATING FACTORS...
 - Checks should not be taken from customers with no identifying information.
 - Strangers asking for cash over the purchase amount
 - Customers wanting to return merchandise for cash on the same day the check was written
 - Payroll checks with rubber stamp address of company
 - Two or three-party checks

DO	DON'T
Ask for a valid Texas drivers' license or state ID number and write it on the check yourself.	Accept a drivers' license number or date of birth verbally from the check writer.
Confirm the signature with the printed name on the check.	Accept a check that was previously signed.
Confirm the address with the customer.	Accept checks without an address or with a temporary address.
Have the clerk who accepted the payment initial the check to ensure they confirmed the writer's identity.	Accept checks by mail.

CHECKS WHICH CANNOT BE ACCEPTED FOR PROSECUTION

- **CHECKS WRITTEN FOR MORE THAN \$2,500.00**
 - These are felony cases and must be filed at the District Attorney's office.
- **FORGED/IRREGULAR SIGNATURES**
 - Forgeries are handled by the local law enforcement agencies and should be reported immediately.
- **REFER TO MAKER**
 - Contact the bank for circumstances regarding the account. At this time it is not considered a criminal matter.
- **POST-DATED**
 - State law defines post-dated checks as promised to pay in the future. Check is not offered as immediate payment.
- **CHECKS DEPOSITED OVER 30 DAYS FROM CHECK DATE**
 - The check is no longer a valid instrument; it is considered stale dated and is not prosecutable.
- **PARTIAL PAYMENT**
 - When you accept partial payment on a worthless check, you are accepting a promise to pay. The County Attorney cannot prosecute promissory notes.
- **CHECKS WRITTEN FOR PAYMENT ON AGREEMENT OR CONTRACT**
 - You should consult a private attorney on filing a civil law suit.
- **CHECKS DRAWN ON OUT OF STATE BANKS**
 - It is near impossible to obtain out-of-state bank records. If a court hearing is scheduled, it will also be the complainant's responsibility to pay transportation costs involved in bringing the witness to Brenham, Texas.
- **TWO OR THREE PARTY CHECKS**
 - Prosecution in our office is impossible. It must be proved that the enforcer knew at the time he presented the check for payment that the writer did not have funds on deposit to pay the check. You should consult a private attorney regarding the civil liabilities to file a civil law suit.
- **CHECKS RECEIVED IN THE MAIL**
 - In order to prosecute, the identity of the check writer must be verified in person.